

COMDTINST 5760.12
21 MAR 2002

COMMANDANT INSTRUCTION 5760.12

Subj: RELATIONS WITH THE COAST GUARD FOUNDATION

1. **PURPOSE.** This Instruction provides guidance regarding acceptance of Coast Guard Foundation (Foundation) gifts offered to the Coast Guard and guidance to Coast Guard personnel who participate in Foundation meetings or activities in either their official or private capacities.
2. **ACTION.** Area and district commanders, commanders of maintenance and logistics commands, chiefs of offices and directors at Coast Guard Headquarters, the Academy Superintendent and commanding officers of Headquarters Units shall ensure compliance with the provisions of this Instruction.
3. **DIRECTIVES AFFECTED.** Relations with the Coast Guard Academy Alumni Association (CGAAA), the Coast Guard Foundation (CGF) and the Coast Guard Academy Parents Association (CGAPA), COMDTINST 5760.11A is hereby cancelled.
4. **DISCUSSION.**
 - a. Unlike the other branches of the armed forces, the Coast Guard is also a federal law enforcement agency and federal regulatory agency. The Coast Guard may take actions or make decisions that could impact on maritime companies and officials. Additionally, major procurement decisions affecting maritime industry companies may be pending with the Coast Guard. Although, in the public's eye, the Foundation is a private, non-profit organization, it is closely affiliated with the Coast Guard. Some maritime companies donate gifts to the Foundation and some maritime officials participate in the management of the Foundation. This uniqueness requires all Coast Guard personnel to be sensitive to potential adverse perception and publicity that could result from the Coast Guard accepting gifts from the Foundation that originated with donors that do business with the Coast Guard, that are regulated by the Coast Guard, or that have interests that could be substantially affected by Coast Guard decisions.

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- b. The Foundation conducts business meetings and also sponsors activities, including, but not limited to, dinners and award ceremonies. Some of the activities may be fundraising events. All Coast Guard personnel must be aware that federal ethics rules regulate their participation in Foundation meetings or activities even if their participation is in a personal, private capacity.

5. **DEFINITIONS.**

- a. Coast Guard Personnel. For purposes of this Instruction, the term "Coast Guard personnel" includes all uniformed members of the Coast Guard Regular Component; all appropriated and non-appropriated fund civilian employees; all Special Government Employees; all uniformed members of the Coast Guard Reserve Component while on inactive or active duty training and while earning retirement points pursuant to Title 10, U.S.C.; all Auxiliary members when under orders; all uniformed members of the Public Health Service (PHS) and Department of Defense (DOD) Regular Component assigned or detailed to the Coast Guard for 30 days or more; Coast Guard Academy cadets; and any expert or consultant who is under contract with the Coast Guard pursuant to 5 U.S.C. 3109.
- b. Gift. A gift is the gratuitous, voluntary transfer of ownership in property or the gratuitous provision of a service without consideration or compensation. Said another way, a gift is anything not paid for by the recipient that has a monetary value, including, but not limited to, such items as cash, negotiable instruments, securities, endowments, scholarships, personal property, real property, and services.
- c. Restricted Gift. Any gift that the original donor explicitly specifies must go to the Coast Guard. An original donor is the person or entity that offers or makes a gift to the Coast Guard through the Foundation.
- d. Unrestricted Gift. Any gift that is not a restricted gift.
- e. Special Projects. Special projects relate to the acquisition, improvement, modification, or renovation of real property shore facility asset (s). These are usually larger projects in cost, scope and complexity and may take more than 12 months to complete from planning through construction completion.
- f. Prohibited Source.
 - (1) As a general rule, a prohibited source is any person, company, organization or non-federal governmental entity that: is doing business with the Coast Guard; is seeking business with the Coast Guard; is conducting activities that are regulated by the Coast Guard; has interests that might be substantially affected by Coast Guard personnel performing or not performing their duty; or, is an organization or association having a majority of members that meet one or more of the above criteria. However, recreational boaters, although technically regulated by the Coast Guard, are exempted as a class from prohibited source rules for purposes of

this instruction. Additionally, attorneys who devote less than a majority of their time to representing (or lobbying for) the maritime industry and who also derive less than a majority of their personal income from representing (or lobbying for) the maritime industry (either directly or through members of the firm) are also exempted as a class from prohibited source rules for purposes of this instruction.

- (2) If the salaried Chief Executive Officer or volunteer Chief Executive Officer, or equivalent, in the Foundation is a prohibited source or is an officer, employee, or representative of a prohibited source, the Foundation is deemed to be a prohibited source.
- (3) If the majority of the Foundation's board members are officers, employees, or representatives of prohibited sources, the Foundation is deemed to be a prohibited source.

6. **POLICY AND PROCEDURES.**

- a. **Delegation Of Gift Acceptance Authority.** Except for gifts of official foreign travel, the Vice-Commandant (G-CV) and Director of Finance and Procurement (G-CFP) are hereby delegated the authority to accept all gifts offered to the Coast Guard by the Foundation, regardless of value. Except for gifts of official foreign travel, the Coast Guard Academy (Academy) Superintendent is hereby delegated the authority to accept all Foundation gifts offered to the Academy that have a value of \$50,000 or less. Accordingly, every Foundation gift item offered to the Academy having a value exceeding \$50,000 must be forwarded to Commandant (G-CFP) for an acceptance decision. This delegated gift acceptance authority cannot be re-delegated without the express, written approval of the Commandant. All gift acceptance decisions must be in writing and personally signed by Commandant (G-CV), Commandant (G-CFP) or the Superintendent.
- b. **Coast Guard and Academy Needs Lists.** Each year, the Vice-Commandant shall approve general Coast Guard needs lists. The Superintendent shall approve and maintain Academy needs lists. Each needs list will identify items and projects that will benefit the Coast Guard or Academy. Although all Coast Guard personnel are prohibited from soliciting gifts from the Foundation, if the Foundation makes a written or verbal offer to provide gift support to the Coast Guard or Academy, or if the Foundation asks for needs lists information, the Vice-Commandant and Superintendent, or their designees, are authorized to respond to the Foundation by providing the needs lists, or needs list information.
- c. **Annual Foundation Gift Offers.** The Foundation may make an annual, written, omnibus gift offer to the Vice-Commandant or Superintendent, or their designees. Such annual gift offers may contain items listed on a general Coast Guard needs list and/or an Academy needs list and other individual gift items, and may include construction projects. Such gift offers may be conditioned on the Foundation's financial capabilities and accordingly some specific gift offer items may be funded in subsequent gift years.

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- d. Separate Foundation Gift Offers. The Foundation may also offer gifts throughout its gift year to the Coast Guard or Academy that are separate from and in addition to the gift items listed on the Foundation's annual omnibus gift offer.
- e. Special Scrutiny of Certain Restricted Gifts. The Foundation has agreed to provide Commandant (G-CFP), or the Superintendent where appropriate, with the identity of any donor that contributes more than \$25,000 to the Foundation in any one restricted gift transaction or who donates a total of more than \$100,000 to the Foundation for multiple restricted gifts during the Foundation's gift year. Commandant (G-CFP), or the Superintendent where appropriate, shall conduct a prohibited source review as discussed in paragraph 6. f. prior to accepting a restricted gift that exceeds those thresholds. A paragraph 6. f. review is not required, but can be applied at the acceptance authority's discretion, if the restricted gift value thresholds are not exceeded. It is understood that the Foundation may offer a gift item to the Coast Guard but may not be able to identify a donor or donors at that time because the Foundation intends to solicit donations for the gift item later during the gift year. In such cases, Commandant (G-CFP), or the Superintendent where appropriate, may accept the Foundation gift item subject to later scrutiny of the donor or donors as necessary.
- f. Prohibited Source Review. Commandant (G-CV), Commandant (G-CFP) or the Superintendent can accept a gift only after determining that it is in the Coast Guard's best interest to do so. If the original donor is not a prohibited source, the restricted gift may be accepted without the special scrutiny described in this paragraph. If the donor is a prohibited source, the following must be considered prior to accepting the gift: the positive impact on the Coast Guard in accepting the gift; the business or regulatory relationship between the prohibited source donor and the Coast Guard; the nature and sensitivity of any matter pending between the prohibited source donor and the Coast Guard; the likelihood of adverse publicity should the gift be accepted; and whether a reasonable person, knowing all the facts, would lose confidence in Coast Guard programs or operations by concluding that there is an impropriety in accepting the gift. Whenever special scrutiny of a restricted gift is required, Commandant (G-CV), Commandant (G-CFP) and the Superintendent must obtain and consider an opinion and recommendation from their servicing Coast Guard legal office before accepting the gift.
- g. Special Projects. Special projects are complex and lengthy to implement. Additionally, they often have follow-on funding requirements that need to be addressed. In order to exercise due diligence in accepting these types of gifts, the procedures in enclosure (1) for special project approval shall be followed.

7. PARTICIPATION IN FOUNDATION MEETINGS AND ACTIVITIES.

- a. Coast Guard personnel participate in Foundation meetings and activities in either an official (Coast Guard) or personal (private citizen) capacity.

b. Participation in an Official Capacity.

- (1) All flag officers and SES employees are hereby designated as official Coast Guard liaisons to the Foundation. No other Coast Guard personnel are designated as liaisons to the Foundation. The Vice-Commandant is the senior Foundation liaison and shall make or approve policy regarding the Coast Guard's and the Academy's relations with the Foundation. As liaisons, when it is in the best interest of the Coast Guard, flag officers and SES employees can, as described below, participate in the Foundation meetings and activities. Such participation is official, shall be in uniform, unless it would be inappropriate for the event, and is at government expense. Liaisons should contact their servicing legal office for ethics advice prior to participating in any Foundation meeting or activity especially if the activity is a Foundation fundraising event. Liaisons are permitted to use Coast Guard time, assets and funds to prepare for or participate in the Foundation meetings and activities. The Foundation liaisons represent only the Coast Guard's interests - never the Foundation's interests. Liaisons are prohibited from participating in the management of the Foundation, sitting as an honorary or official Foundation Board member, or exercising a vote during the Foundation meetings or activities. Liaisons are prohibited from soliciting gifts from the Foundation for the Coast Guard, Academy, or themselves. If the Foundation offers to pay some or all of the expenses associated with a liaison participating in a Foundation meeting or activity, or if the Foundation offers any gift to a liaison, the liaison shall contact his or her servicing legal office for advice.
- (2) It may be in the Coast Guard's interest that other Coast Guard personnel attend Foundation meetings and activities in an official capacity. Such personnel must first contact their servicing legal office for guidance.

c. Participation in a Private Capacity. Within certain restrictions, Coast Guard personnel can participate in Foundation meetings and activities in their private, personal capacities. In so doing, they are acting as private citizens. They do not represent the Coast Guard and cannot wear the uniform. Coast Guard time, assets, or funds cannot be used to prepare for or participate in the Foundation meetings or activities in a private, personal capacity. Prior to participating in a Foundation meeting or activity in a private, personal capacity, Coast Guard personnel should contact their servicing legal office for ethics advice. Even when acting in a private, personal capacity, Coast Guard personnel cannot solicit gifts from the Foundation for the Coast Guard, Academy, or themselves. If the Foundation offers to pay some or all of the expenses associated with participation in the Foundation meeting or activity in a private, personal capacity, or offers any gift, Coast Guard personnel must contact their servicing legal office for advice.

8. **PROGRAM MANAGEMENT.**

- a. The Vice-Commandant is the Foundation Program Director with overall program authority and responsibility.
- b. The Director of Finance and Procurement is the Foundation Program Manager with the responsibility for day-to-day management of the program and is the primary gift acceptance authority for all Foundation gifts accepted at Coast Guard Headquarters.

9. **RESPONSIBILITIES FOR FOUNDATION GIFTS.** All Foundation gifts accepted by Commandant (G-CV), Commandant (G-CFP) or the Superintendent must be properly accounted for. The following responsibilities are assigned:

- a. Superintendent
 - (1) All cash/check gifts and all negotiable instruments and securities accepted by the Superintendent shall be directed to the Academy Comptroller for recording and forwarding to the Coast Guard Finance Center in accordance with The Standard Operating Procedures (SOP), FINCENSTFINST M7000 and deposited in the Coast Guard Gift Fund. Where appropriate, funds deposited in the Gift Fund will be distributed to local accounts to facilitate use.
 - (2) For gifts of real and personal property accepted by the Superintendent, the Academy will make all appropriate entries in the Coast Guard Property System.
 - (3) The Superintendent shall submit an annual gift acceptance report to Commandant (G-CFP).
- b. Commandant (G-CFP)
 - (1) On an annual basis, Commandant (G-CFP) shall determine whether the Foundation is deemed to be a prohibited source.
 - (2) Commandant (G-CFP) shall perform audits of CG accounts to ensure adherence to established procedures.
 - (3) Commandant (G-CFP) shall be the primary point of contact for acceptance of Foundation gifts for the Coast Guard in general and will maintain all records for all gifts accepted by Headquarters.
 - (4) Commandant (G-CFP) shall prepare and submit to Commandant (G-CV) an annual report of all Foundation gifts accepted by the Coast Guard during the gift year.
 - (5) For gifts of real and personal property accepted at Headquarters, appropriate entries will be made in the Coast Guard Property System.

- (6) All cash/check gifts and all negotiable instruments and securities accepted at headquarters shall be directed to Commandant (G-CFM-3) for recording and forwarding to the Coast Guard Finance Center in accordance with The Standard Operating Procedures (SOP), FINCENSTFINST M7000 and deposited in the Coast Guard Gift Fund. Where appropriate, funds deposited in the Gift Fund will be distributed to local accounts to facilitate use.
- c. Commandant (G-CV) shall provide copies of all gift related and project approval correspondence to Commandant (G-CFP) for acceptance determination and permanent record keeping.

/s/

James M. Loy
Commandant

Encl: (1) Policy and procedures for Special Projects

POLICY AND PROCEDURES FOR SPECIAL PROJECTS

This guidance outlines the submission, review, tracking, prioritization, approval, execution, and reporting process of Special Projects using the Civil Engineering Data System (CEDS).

- a. Submission: CG Units will submit a Shore Station Maintenance Report (SSMR), formal letter, or enter a direct CEDS project request for special projects to their servicing Civil Engineering Units (CEU).
- b. Review: The CEU will review the project for technical scope, ensure improvements comply with CG standards, *validate the cost estimate*, and review for potential follow-on costs. The CEU will coordinate revisions with the requestor if necessary and will be responsible for maintaining project documentation.
- c. Tracking: Projects will be assigned a project number and entered on the CEDS backlog by the CEU. Special projects will be coded as fund type "CGF". Information will be maintained and updated by the servicing CEU as projects are worked through the process.
- d. Prioritization: Districts and HQ Unit COs will review and prioritize special projects via the servicing CEU at the Project Obligation Priority (POP) boards throughout the FY. In June the MLCs will finalize the prioritization of all projects for their AOR and assign priority numbers within CEDS. Commandant (G-SEC) will query CEDS and extract projects by Area on September 30th of each FY. Both MLC prioritized lists will be forward to Commandant (G-CV), via Commandant (G-S) and copy to Commandant (G-CCS), projects remaining on the backlog more than 10 years will be purged from CEDS and returned to originating unit for revalidation.
- e. Approval: Commandant (G-CV) shall notify Commandant (G-S) as to the projects selected for funding. Commandant (G-SEC) will notify the MLC/CEU of the approved project for coordination directly with the donor.
- f. Execution: Projects selected will be tasked to the appropriate CE field unit. Should funding be provided via the CG Gift Account, the responsible CEU or designated Facility Engineer will plan, design, and execute special projects and provide funds accountability. When applicable, any follow-on operating expense (OE) support funding requirements will be requested via the RP process. Should the donor choose to contract and build the special project directly, the CEU or Facility Engineer (FE) will assist the donor in delivering a complete and usable facility.
- g. Reporting: Special Projects will be tracked using CEDS. Project progress reports will be available from Commandant (G-SEC) upon request
- h. Funds Accountability: When funding is provided via the CG Gift account, CEUs will plan, design, and execute special projects and provide funds accountability to the donor.

Process to Capture, Review, Prioritize and Report CG Foundation Special Projects

